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312 Rosa L. Parks, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615.741.2650
Fax: 615.741.5133
Email: register.information@tn.gov

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Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Department of General Services
Division:	
Contact Person:	Thaddeus E. Watkins, III, General Counsel
Address:	24 th Fl., William R. Snodgrass Tower, 312 Rosa L. Parks Ave., Nashville, TN 37243
Phone:	615.741.5922
Email:	Thaddeus.E.Watkins@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	David Carpenter, Capitol Facilities Administrator
Address:	G23 War Memorial Building, Nashville, TN 37243
Phone:	615.532.4826
Email:	David L. Carpenter@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Legislative Plaza Room 30
Address 2:	301 6th Avenue North
City:	Nashville
Zip:	37243
Hearing Date :	04/16/12
Hearing Time:	1:00 p.m. – 3:00 p.m. <input checked="" type="checkbox"/> CST/CDT <input type="checkbox"/> EST/EDT

Additional Hearing Information:

Revision Type (check all that apply):

☐ Amendment
☒ New
☐ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0690-06-01	Procedures for Use of the Tennessee War Memorial Plaza and Courtyard
Rule Number	Rule Title
.01	Definitions
.02	General Procedures
.03	Procedures for Reserving Plaza or Courtyard

Chapter 0690-06-01
Procedures for Use of the Tennessee War Memorial Plaza and Courtyard

New Rules

- Rule 0690-06-01-.01 Definitions
Rule 0690-06-01-.02 General Procedures
Rule 0690-06-01-.03 Procedures for Reserving the Plaza or Courtyard

0690-06-01-.01 Definitions

(1) The following terms shall have the meanings set forth in this rule:

- (a) The War Memorial Plaza ("Plaza"), located in downtown Nashville, is the open public space in front of the War Memorial Building, bounded between Union Street, Sixth Avenue and Charlotte Avenue.
- (b) The War Memorial Courtyard ("Courtyard") is open public space located adjacent to the Plaza, and is bounded on the west by Seventh Avenue.
- (c) The "Capitol Facility Administrator" is the Department of General Services employee whose duty it is to manage and maintain the Plaza and Courtyard.

Authority: T.C.A. §4-3-1105(8), (11) and (12).

0690-06-01-.02 General Procedures

(1) The following procedures shall be followed in the administration and operation of the Plaza and Courtyard:

- (a) Public use of the Plaza or Courtyard shall not adversely affect the health and safety of persons on or near the Plaza or Courtyard.
- (b) Public use of the Plaza or Courtyard shall not impede or interfere with the conduct of state business.
- (c) Nothing herein shall apply to federal, state or local law enforcement personnel engaged in their official duties.
- (d) No sound amplifying equipment, instruments or devices that create noise, which clearly can be heard by unimpaired auditory senses fifty (50) feet or more from any electromechanical speaker shall be used, unless prior approval has been granted, in writing, by the Department of General Services.
- (e) Stepping or climbing upon statues, monuments, fences, lighting fixtures, light wells, trees, or parts of the Plaza or Courtyard not intended for such purposes is not permitted.
- (f) Entering, wading, or swimming in any fountains is not permitted. Submerging personal belongings into the fountains is also not permitted.
- (g) Vehicles, bicycles, skates, skateboards or sleds or similar devices shall not be used or operated on the Plaza or Courtyard. Persons with disabilities or mobility impairment, however, may use wheelchairs, scooters, or other similar devices designed for use by persons with disabilities or mobility impairments necessitating such use.

- (h) Alcoholic beverages shall not be dispensed or consumed on the Plaza or Courtyard, unless all permits required by state and local law have been obtained and prior approval has been granted by the Department of General Services.
- (i) Open flames or fuel are not permitted on the Plaza or Courtyard, unless all permits required by state and local law have been obtained and prior approval has been granted by the Department of General Services.
- (j) Use of any electrical outlets located on the Plaza or Courtyard is not permitted, unless prior approval has been granted by the Department of General Services or the Capitol Facility Administrator.
- (k) Use of the water hose connections and water spigots located on the Plaza or Courtyard is not permitted, unless prior approval has been granted by the Department of General Services or the Capitol Facility Administrator.
- (l) Picketing or the distribution of literature shall not impede or interfere with state business or public access to and use of the Plaza or Courtyard. In order to inform persons or groups of the procedures for the use of the Plaza and Courtyard, it is recommended, but not required, that persons or groups desiring to picket or distribute literature on the Plaza or Courtyard provide the date and time of this activity to the Capitol Facility Administrator. Persons or groups picketing or distributing literature are responsible for removing all discarded items from the Plaza and Courtyard at the conclusion of their activity.
- (m) Camping or sleeping overnight on the Plaza or Courtyard is not permitted.
 - 1. Camping is defined as the use of the Plaza or Courtyard for living accommodation activities such as:
 - (i) Sleeping or making preparations to sleep (including the laying down of bedding for the purpose of sleeping);
 - (ii) Storing belongings for future use (e.g. food for consumption in the future);
 - (iii) Making any fire;
 - (iv) Using any tent or shelter or other structure or vehicle for living accommodation activities such as sleeping; or
 - (v) Carrying on cooking activities.
 - 2. These activities constitute camping when it reasonably appears in light of all of the circumstances that the participants, in conducting these activities, are in fact using the area as a living accommodation, regardless of the intent of the participants or the nature of any other activities in which they may also be engaging.
- (n) In order to maintain the security, safety and aesthetic appearance of the Plaza and Courtyard and to provide for regular maintenance, no improvements or alterations, such as stages and reviewing stands may be erected, unless prior approval has been granted in writing by the Capitol Facility Administrator prior to the erection of any structures.
- (o) In case of fire, bomb threat, utility malfunction, structural failure, severe weather or any other unforeseen emergency or threat to public safety or health, the Department of Safety or the Capitol Facility Administrator may evacuate the Plaza or Courtyard and deny access to the Plaza or Courtyard for the duration of the emergency or threat to public safety or health.
- (p) Defacing or damaging the Plaza or Courtyard, which includes, but is not limited to, trees, shrubbery, flowers, lawns, surfaces, sidewalks, fences, lighting fixtures, light wells, fire hydrants, benches, statues, monuments and plaques, is not permitted. Likewise, defacing or damaging the walls and

surfaces of the Plaza or Courtyard, which include but are not limited to, the entrances, porches and staircases, is not permitted.

- (q) Due to the presence of underground utility, electrical and drainage lines, and the protective covering of the subterranean Legislative Plaza area, no object shall be driven into the surface or ground of the Plaza or Courtyard.
- (r) Due to the fact that many of the stones on the Plaza and Courtyard are supported on only their corners and will break if this weight limit is exceeded, items or equipment placed on the Plaza or Courtyard weighing more than four-hundred-and-fifty (450) pounds per stone are not permitted.
- (s) Any metal or stone item or equipment brought onto the Plaza or Courtyard must have a rubber or wood buffer to prevent damage to the Plaza and Courtyard stones.
- (t) Equipment or structures of any kind brought onto the Plaza or Courtyard in connection with an event shall be removed entirely at the conclusion of the event by the persons or group conducting the event.
- (u) A person or group shall not remove state property from the Plaza or Courtyard, unless the removal has been previously authorized in writing by the Department of General Services.
- (v) Any person who refuses to adhere to these conditions shall be subject to, in addition to criminal penalties provided by law, immediate removal from the Plaza or Courtyard by the Capitol Facility Administrator or any other person designated by the Capitol Facility Administrator.
- (w) Nothing contained herein shall be construed as limiting prosecution under any existing or future law.
- (x) Nothing contained herein is intended to supersede or negate any other state and federal laws or administrative rules.

Authority: T.C.A. §4-3-1105(8), (11) and (12).

0690-06-01-.03 Procedures for Reserving the Plaza or Courtyard

- (1) The Department of General Services may allow persons and groups to reserve areas of the Plaza and Courtyard. Reservations give persons and groups planning events on the Plaza and Courtyard the assurance that they will have access to a predetermined area for a predetermined amount of time. Additionally, the reservation process provides persons and groups planning events a procedure to obtain the proper approvals and permits necessary to carry out the activities described in rules 0690-06-01-.02(1)(d), (h), (i), (j), and (k).
 - (a) Applications to reserve the Plaza and Courtyard are subject to approval by the Department of General Services. The decision to approve an application to reserve the Plaza or Courtyard will be based upon a determination that public health and safety, natural or cultural resources, implementation of management responsibilities, proper allocation and use of facilities, public enjoyment of the grounds, and the avoidance of conflict among visitor use activities will not be adversely impacted.
 - (b) The Department of General Services may also deny an application to reserve the Plaza or Courtyard on any of the following grounds:
 - 1. The application for reservation (including any required attachments and submissions) is not fully completed and executed;
 - 2. The applicant has not tendered the required application fee with the application or has not tendered the required indemnification agreement or insurance certificate;
 - 3. The application for reservation contains a material falsehood or misrepresentation;

4. The applicant is legally incompetent to contract or to sue and be sued;
 5. The applicant or the person on whose behalf the application to reserve was made has on prior occasions damaged the Plaza or Courtyard;
 6. The applicant has on prior occasions made material misrepresentations regarding the nature or scope of an event or activity previously permitted or has violated the terms of a prior reservation issued to, or on behalf of, the applicant;
 7. The proposed use or activity would present an unreasonable danger to the health or safety of the applicant, other users of the Plaza and Courtyard or the public; and
 8. The use or activity intended by the applicant is prohibited by state or federal laws or administrative rules promulgated thereunder.
- (c) If an application to reserve the Plaza or Courtyard is denied, the Department of General Services may suggest alternative times, dates and locations.
- (d) Any applicant, whose application for reservation is denied, may file an appeal to the Commissioner of the Department of General Services within fourteen (14) days after the denial. The applicant can appeal an adverse ruling by the Commissioner by petitioning the Chancery Court for Davidson County, Tennessee for Writ of Certiorari (see, T.C.A. §27-8-101).
- (e) Since the areas available for events are limited and the demand is, at times, high, it is recommended, but not required, that requests be made at least one month in advance. The Department of General Services shall decide whether to grant or deny an applicant's request for reservation within fourteen (14) days after receipt of a fully completed application, unless, by written notice to the applicant, the Department of General Services extends the period an additional fourteen (14) days.
1. Requests for information about reserving use of the War Memorial Courtyard or Plaza in conjunction with the rental of the War Memorial Auditorium should be made to:
- Tennessee Performing Arts Center ("TPAC")
505 Deaderick Street, 3rd Floor
Nashville, TN 37243
615.782.4000
2. Requests for information about reserving use of the War Memorial Courtyard or Plaza not in conjunction with the use or the rental of the War Memorial Auditorium should be made to:
- Department of General Services
312 Rose L. Parks Ave., 22nd Floor
Nashville, TN 37243
615.741.2228
3. The addresses and phone numbers for TPAC and the Department of General Services provided in rules 0690-06-02.03(1)(e)(1.) and (2.) may be changed with notice placed on the respective entity's website.
- (2) The following procedures shall be followed in the administration and operation of the Plaza and Courtyard for persons and groups seeking to reserve parts of the Plaza and Courtyard:
- (a) In the case of fire, bomb threat, utility malfunction, structural failure, severe weather or other unforeseen emergency or threat to public safety or health, the Capitol Facility Administrator may cancel, delay or postpone any scheduled event until the emergency or threat no longer exists.

- (b) Persons or groups reserving use of any area of the Plaza or Courtyard shall either: (1) indemnify and hold harmless the State of Tennessee, its departments, agents and employees from and against any and all suits, damages, claims and other liabilities due to personal injury or death, damage to or loss of property to the State and to others, and for any other injury or damage arising out of or resulting from the use of the Plaza or Courtyard; or, (2) agree to carry \$1,000,000.00 general liability insurance naming the State of Tennessee, Department of General Services, as an additional insured in said policy.
- (c) Food and beverages may be served at a reserved event provided that the following criteria are met:
1. The applicant receives prior written approval from the Department of General Services to serve food or beverages;
 2. The applicant specifies in writing, prior to the event, the type of food and beverages to be served and the desired service area;
 3. The applicant assumes responsibility for the preparation, service, and consumption of all food and beverages provided during the event, as well as clean-up following the event;
 4. The food and beverage service will not result in physical or aesthetic damage to the Plaza or Courtyard; and
 5. Alcoholic beverages may only be dispensed or consumed on the Plaza or Courtyard, if all permits required by state and local law have been obtained and prior approval has been granted by the Department of General Services.
- (d) If equipment for an event is required by the applicant, the applicant must notify the Capitol Facility Administrator's Office. The Capitol Facility Administrator has limited equipment for use at events on the Plaza or Courtyard. Arrangements may be made for the Capitol Facility Administrator to provide such equipment, if available, upon payment of reasonable charges by the persons or groups responsible for the event. Otherwise, equipment shall be provided by the persons or groups sponsoring events. Persons or groups planning to bring equipment onto the Plaza or Courtyard for an event must receive prior written approval from the Capitol Facility Administrator for both the equipment and its location. Persons or groups using the equipment of the Capitol Facility Administrator's Office will be responsible for any damage to, or loss of, that equipment.
- (e) All items, materials, and food must be removed promptly after an event by the person or group holding the event. Equipment or structures of any kind that are placed on the Plaza or Courtyard in connection with an event shall be removed at the conclusion of the event by the persons or group holding the event.
- (f) The Department of Safety is responsible for providing security of the Plaza and Courtyard. (see, T.C.A. § 4-3-2006). The Department of Safety may require, based on reasonable concerns for public health and safety, persons or groups planning an event to pay the cost of security, which will be based upon the size and scope of the event. If security is deemed necessary, the Department of Safety determine whether security should be provided by State Troopers or by private security guards duly licensed by the State of Tennessee. Security must be on duty one-half hour prior to an event opening until one-half hour after the event closes. The cost of this security, provided by either State Troopers or by private security guards, shall be paid by the persons or groups holding the event.
- (g) No charges will be made to persons or groups for use of the Plaza and Courtyard other than fees charged for an application to reserve use of the premises, the use of equipment, power and labor to set-up the event, operation and removal of equipment, security, and the repair of any damage to the Plaza and Courtyard by the persons or groups during the event.

Authority: T.C.A. §§4-3-1105 (8), (11), and (12), and 4-3-2006(a)(2).

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: _____

Signature: _____

Name of Officer: Thaddeus W. Watkins, III

Title of Officer: General Counsel, Department of General Services

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

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Filed with the Department of State on: _____

Tre Hargett
Secretary of State